

1 **SENATE FLOOR VERSION**

2 April 10, 2023

3 ENGROSSED HOUSE
4 BILL NO. 1597

By: Martinez and Dollens of the
House

5 and

6 Newhouse of the Senate

7
8 An Act relating to contracts; amending 15 O.S. 2021,
9 Section 765.6, which relates to Notice of Opportunity
10 to Repair Act; subjecting requirements to certain
11 contractual agreements; and providing an effective
12 date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 15 O.S. 2021, Section 765.6, is
15 amended to read as follows:

16 Section 765.6 A. For the purposes of this section:

17 1. "Construction defect" means a deficiency in or a deficiency
18 arising out of the design, specifications, surveying, planning,
19 supervision or observation of construction or construction of
20 residential improvements that results from any of the following:

- 21 a. defective material, products or components used in the
22 construction of residential improvements,
23 b. violation of the applicable codes in effect at the
24 time of construction of residential improvements,

1 c. failure of the design of residential improvements to
2 meet the applicable professional standards of care at
3 the time of governmental approval of the design of
4 residential improvements, or

5 d. failure to construct residential improvements in
6 accordance with accepted trade standards for good and
7 workmanlike construction at the time of construction;

8 2. "Contractor" means a person or entity providing labor,
9 services or materials in the construction of a new residence or
10 alteration of, repair of, or addition to an existing residence; and

11 3. "Residence" means any structure designed and used only for
12 residential purposes, together with all attached and unattached
13 structures, constructed by the contractor, regardless of whether the
14 real property upon which the residence is located was purchased from
15 the contractor. Such term also includes a residence upon which
16 alterations or repairs were performed by the contractor at the
17 direction of the homeowner.

18 B. A contract for the construction of a new residence or for an
19 alteration of, repair of, or addition to an existing residence may
20 include provisions which:

21 1. Require a homeowner, prior to filing a lawsuit for
22 construction defects, to present to the contractor a written notice
23 of construction defects; and

1 2. Allow the contractor to inspect any construction defects and
2 present to the homeowner a written response which shall include the
3 contractor's offer to repair defects or compensate homeowner for
4 such defects within thirty (30) days after receipt of the notice of
5 defects.

6 ~~If~~ Regardless of whether such provisions are included in a
7 contract, the homeowner shall not file a lawsuit against the
8 contractor until the conditions precedent as set forth in paragraphs
9 1 and 2 of this subsection have been fulfilled. In the event the
10 homeowner files a lawsuit against the contractor without fulfilling
11 the conditions precedent, the contractor shall be entitled to a stay
12 of proceedings until such conditions have been fulfilled. If the
13 conditions precedent have been fulfilled, the homeowner may seek
14 remedies against the contractor as provided by law. The provisions
15 of this section shall not be subject to, and nothing herein is
16 intended to alter, contradict or otherwise diminish the application
17 of, the terms of a separate express contractual warranty agreed upon
18 by a contractor or homeowner. This section does not create a cause
19 of action or derivative liability or extend a limitations period.

20 SECTION 2. This act shall become effective November 1, 2023.

21 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
22 April 10, 2023 - DO PASS
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